



# REMARKS/ARGUMENTS

Claims 1 to 29 are pending in this application. Previously elected Claims 1 to 4, 8 to 10 and 13 to 15 have been rejected. Claims 5 to 7, 11, 12 and 16 to 29 have been withdrawn from consideration.

Claims 1 and 2 have been rejected under 35 U.S.C. §102(c) as being clearly anticipated by the published U.S. application to LeGrand No. 2005/018854781. Claims 3, 4, 8 to 10 and 13 to 15 have been rejected under 35 U.S.C. §103(a) as unpatentable over LeGrand. These are the only rejections of any of the claims presently in this application. No other grounds of rejection or objection remain. As noted in applicant's previous response to the Office Action of October 19, 2005, the LeGrand application is based on a continuation of PCT application PCT/FR03/01727 filed on June 10, 2003. Consequently, the earliest possible effective filing date of the cited LeGrand reference is June 10, 2003.

In response to the previous Office Action, applicant submitted an Affidavit Under 37 CFR §1.131 which constituted a showing of facts showing applicant's conception and reduction to practice of the invention prior to June 10, 2003, or in the alternative, conception of the invention prior to June 10, 2003 coupled with diligence up to the filing of applicant's application on February 10, 2004. The aforementioned affidavit was accompanied by exhibits

1 of drawings, records and the like to substantiate the various facts  
2 sworn to by applicant in applicant's affidavit.

3 In the final rejection to which this response is being made,  
4 the Examiner stated that applicant's affidavit under 37 CFR 1.131  
5 was not persuasive. The Examiner took the position that applicant  
6 had abandoned the invention, since he had the string trimmer line  
7 reduced to practice in 1992 but did not apply for a patent. The  
8 Examiner has referred to the period of time from 1992 to 1998 as  
9 apparently evidencing such abandonment.  
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11 As part of the reasoning for the Examiner's position for  
12 considering the affidavit under 37 CFR §1.131 to be ineffective,  
13 the Examiner stated that there were "many patents" during the  
14 period which claimed the structure of string trimmer line only.  
15 Specifically, the patents to Mickelson No. 4,869,055, Mize No.  
16 4,186,239 and Fogle No. 5,463,815 were cited. Applicant  
17 respectfully submits that all three of these patents, while they  
18 are directed to different configurations of string trimmer line,  
19 disclose string trimmer line cross-sectional configurations which  
20 work with the otherwise standard circular (or round) hole trimmer  
21 heads available and commercially used at the time. None of these  
22 patents were for a string trimmer line configuration which required  
23 something other than the already standard trimmer heads which were  
24 on the market. The cross-sectional configuration of the various  
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1 string trimmer lines shown in these three patents all were designed  
2 to pass through a circular exit opening in a string trimmer head.  
3 This was the design of commercial string trimmer heads available in  
4 the marketplace when the lines of these three cited patents were  
5 designed. String trimmer heads for handling line configurations of  
6 the type recited in the claims of the present application did not  
7 exist during the period of the three patents cited by the Examiner  
8 as examples as to why "applicant could have applied a patent for  
9 the string trimmer line alone".  
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11 Applicant respectfully submits that the only showing which  
12 applicant is required to make under 35 CFR §1.131 is conception and  
13 reduction to practice of applicant's invention prior to the filing  
14 date of the reference involved, or alternatively, conception of an  
15 applicant's invention prior to the filing date of the cited  
16 reference coupled with due diligence to the filing of a patent  
17 application. As a consequence, the fact that applicant may have  
18 shown activity long prior to any filing date of LeGrand, whether or  
19 not there was a gap in that activity, is not the controlling  
20 factor. Applicant could just as well have started the facts  
21 presented in the affidavit with those beginning with Paragraphs  
22 9(or Paragraph 12, or Paragraph 17), all of which effectively show  
23 conception and reduction to practice of applicant's invention prior  
24 to June 10, 2003. These are the controlling facts and dates.  
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1 There has been no abandonment of applicant's invention from any of  
2 these dates prior to the filing date of LeGrand, and continuing from  
3 those dates on through the filing of applicant's own application on  
4 February 10, 2004.

5 For the Examiner to hold that the effective date of  
6 applicant's invention is the filing date of February 10, 2004 "but  
7 not 4/07/1992" misses the point. The Examiner must consider all of  
8 the facts which are set forth in the affidavit. There is a  
9 continuous flow of diligent activity from a time just prior to the  
10 filing date of the LeGrand application on through the date of  
11 filing this present application.  
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13 Active development of trimmer line having substantially flat  
14 cross sections, that is parallel upper and lower surfaces with  
15 varying aspect ratios, was undertaken by Mr. Fogle, the inventor of  
16 the present application, in October 2002, resulting in a purchase  
17 order for different die hole configurations on January 14, 2004  
18 (Paragraphs 12 of Mr. Fogle's affidavit). The die molds were  
19 delivered on January 27, 2003 (Paragraph 13 of Mr. Fogle's  
20 affidavit). On April 11, 2003, Mr. Fogle sent samples of a flat  
21 blade line made with the die molds to Core Innovation for  
22 evaluation (letter Exhibit 14). This letter (Exhibit 14) includes  
23 test data concerning line made in accordance with the sample, along  
24 with reproductions of the cross sections of the various line  
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1 samples. This material is covered in Paragraph 15 of Mr. Fogle's  
2 affidavit.

3 In May, 2003, Mr. Fogle, the inventor and affiant under 37 CFR  
4 §1.131 made sketches of a trimmer head for use with flat line, and  
5 met with affiant's patent lawyer to discuss the head (see  
6 Paragraphs 16 and 17 of affiant's affidavit). The work on the head  
7 was made in conjunction with the development of the flat line,  
8 which already had been reduced to practice prior to May 21, 2003.  
9

10 Continuing with work on the development and testing of flat  
11 line trimmer line, on July 16, 2003 Mr. Fogle (affiant of the  
12 §1.131 affidavit) produced a note of test data concerning the  
13 performance of drag of various line samples, as noted in Paragraph  
14 18 of affiant's §1.131 affidavit, confirming the enhanced operating  
15 characteristics of the line.  
16

17 All of the foregoing work, which took place prior to and  
18 immediately following the filing date of the LeGrand application,  
19 evidences applicant's continuing work to refine and develop optimum  
20 configurations of "flat line" trimmer line, including extensive  
21 testing of various configurations to determine the efficacy of such  
22 lines. Following the results of such testing, a letter memorandum  
23 of agreement with Core Innovations (the potential flat line  
24 customer) was reached on October 22, 2003; and applicant proceeded  
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1 with the preparation and filing of this present application on  
2 February 10, 2004.

3       These portions of the affidavit under 37 CFR §1.131 by Mr.  
4 Fogle, the inventor and applicant here, clearly show continuous  
5 work and development on the various line configurations which form  
6 the subject matter of this present application. Conception,  
7 reduction to practice and testing of the line began prior to the  
8 filing date of the cited LeGrand application, and continued past  
9 that filing date, continuously, up to the preparation and filing of  
10 the present application. Applicant respectfully submits that it is  
11 not necessary to look to any of the dates of 1992 or even 1998 for  
12 applicant's activities to clearly overcome the LeGrand application  
13 as a reference in this present application.  
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15       In view of the foregoing, applicant respectfully requests  
16 withdrawal of both grounds of rejection of Claims 1 to 4, 8 to 10  
17 and 13 to 15, since the sole rejections of any of the claims in  
18 this application is over the LeGrand cited application alone.  
19 Applicant respectfully submits, that in view of the foregoing,  
20 generic Claims 1 and 9, as well as dependent Claims 2 to 4, 8, 10  
21 and 13 to 15 clearly are allowable. Applicant also respectfully  
22 submits that since generic Claims 1 and 9 are allowable, Claims 5  
23 to 7, 11, 12 and 16 to 21 also are allowable, even though these  
24 claims originally were directed to non-elected species. All of  
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1 these claims are dependent, either directly or through one another,  
2 upon independent Claims 1 or 9.

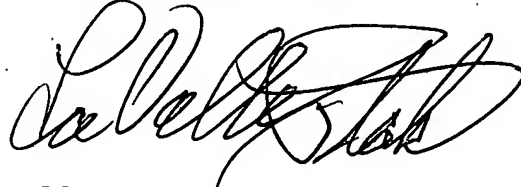
3 As noted in the original restriction requirement, the Examiner  
4 stated that applicant would be entitled to consideration of claims  
5 to additional species written in dependent form or otherwise  
6 including all of the limitations of allowed generic claim.  
7 Applicant respectfully submits that in view of the dependency of  
8 Claims 2 through 8 and 10 through 21 upon one or the other of  
9 independent Claims 1 and 9, all of Claims 1 to 21 now are  
10 allowable. This leaves only method claims 22 to 29 as directed to  
11 an un-elected group of claims. These claims consequently remain  
12 withdrawn for the purpose of filing a subsequent divisional  
13 application.  
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15 In view of the foregoing, applicant respectfully requests  
16 allowance of Claims 1 to 21; and a formal Notice of Allowance of  
17 these claims is respectfully requested. If for any reason the  
18 Examiner does not consider this response to place this application  
19 in condition for allowance, applicant respectfully requests the  
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1 courtesy of a telephone interview with applicant's undersigned  
2 attorney at (480)419-9019.

3 Respectfully submitted,

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Date: 7/13/06